

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
DRAFT Minutes of Regular Meeting
May 9, 2011 @ 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:30 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess
Michael Gravesen
Michael Brown
James Marshall

ABSENT

Brenda Bossman

ATTENDING

Derek Rooney, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of April 11, 2011 were approved as circulated.

ANNOUNCEMENTS

Mr. Gravesen mentioned that he is connected with a corporation that has an interest in property adjacent to the subject property in the first three petitions, but no pecuniary interest or economic impact anticipated. The oath was administered, whereupon the meeting commenced.

PETITIONS

**Revision of U.S. 41 Zoning District
Overlay (Boundary only)**

Legislative

Commission District IV

An ordinance amending Charlotte County Code, Section 3-9-52, U.S. 41 Zoning District Overlay, extending the existing U.S. 41 Zoning District boundary to include one lot located northwest of Morningstar Waterway, southeast of Midway Boulevard, east of S. Ellicott Circle and southwest of Tamiami Trail (U.S. 41), in the Port Charlotte area; Commission District IV; applicant: Jeffrey Fehr; providing an effective date.

PA-11-02-02

Legislative

Commission District IV

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, for an amendment to the 1997-2010 Future Land Use Map of the Charlotte County Comprehensive Plan from Low Density Residential to Commercial Corridor and to the 2030 Future Land Use Map from Low Density Residential (LDR) to Commercial (COM); for property located northwest of Morningstar Waterway, southeast of Midway Boulevard, east of S. Ellicott Circle and southwest of Tamiami Trail (U.S.41), in the Port Charlotte area; containing 1.86± acres; Commission District IV; Petition No. PA-11-03-02; applicant: Jeffrey Fehr; providing an effective date.

Z-11-02-03

Quasi-Judicial

Commission District IV

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Commercial General (CG); for property located northwest of Morningstar Waterway, southeast of Midway Boulevard, east of S. Ellicott Circle and southwest of U.S.41, in the Port Charlotte area; containing 1.86± acres; Commission District IV; Petition No. Z-11-02-03; applicant: Jeffrey Fehr; providing an effective date.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated March 22, 2011 and the evidence presented at the public hearing on the application. She gave specific information regarding some typical CG uses which would not be allowed in the US 41 Overlay District if the zoning change was approved, minimizing the possible impacts to the adjacent residential neighborhood.

Questions for Staff

Chair Hess emphasized that no commercial traffic would be allowed on Ellicott Circle, if the petition was approved; she also asked Ms. Shao to give specific detail regarding the nature of the required buffers on a project such as this within the US 41 Overlay District. **Ms. Shao** described the requirements of the Code within the Overlay District compared to requirements outside that District. **Mr. Marshall** asked for clarification on the permitted building heights.

Applicant's Presentation

Geri Waksler, Esq., applicant's agent, spoke in support of the petitions, reiterating the County's long-standing goal of increasing the depth of commercial development along US 41, to counter the "strip development" pattern of past years. It is understood that this extends commercial activity into residential areas, and so increased buffering is required in this area between existing residential properties and commercial development; **Ms. Waksler** gave additional details of the setbacks and buffering required, and the height restrictions. She also emphasized the restrictions on commercial traffic on the residential streets, noting that access to the rear lots would be provided through one of the applicant's adjacent properties which fronts on US 41.

Ms. Waksler next discussed the history of this property and the applicant's desire to have all his contiguous lots under a single zoning designation. She also discussed other nearby properties that have already received approval for similar expansion in the rear lots, as well as the reduction of density through reduction of residential lots. Finally, although the proposed development would increase traffic overall, the major roadways would remain within their adopted levels of service.

Chair Hess addressed the issue of public concern over past approvals for such expansions into the rear lots, and the ultimate satisfaction with the outcomes that neighboring residents had subsequently expressed.

Public Input

Ms. Charlene Rosselot, owner of an adjacent property, discussed her concerns about the proposal, citing excessive vacant commercial properties in the area which she felt argued against the need for further commercial development. She also brought pictures of buffering fences erected in the area showing poorly maintained landscaping, trash accumulation and other deterioration, arguing that she expects similar issues to arise around this property,

noting that regardless of what is proposed, the reality is different. The group turned to GIS to determine the location of the examples the speaker provided. **Ms. Waksler** and **Mr. Rooney** attempted to distinguish for the speaker the difference in requirements between original commercial lots and those created within the US 41 Overlay District; however, the speaker's concerns did not abate. Further discussion ensued; **Assistant County Attorney Derek Rooney** suggested that many of the concerns expressed would most properly be handled by the Code Enforcement division.

Chair Hess emphasize the difference in outcome between properties where the buffering required just a fence versus those in the Overlay District, which required a wall as part of the buffering. She also inquired of staff who it is that monitors whether or not the project as built does in fact comply with the various buffering requirements; **Ms. Waksler**, speaking from her knowledge of Ace Hardware, indicated that County staff returns at the end of a year to ensure that required plantings are in place and still alive, and require replacement of any plants that have died. Any issues that arise after the County inspection at the end of the first year would be matters for Code Enforcement and they respond to citizen reporting of problems. In response to Ms. Rosselot's inquiry, **Chair Hess** indicated that a wall of the type that would be required for the subject property could be seen at the opposite corner of US 41 and Midway, the site of the CVS Pharmacy.

Ms. Rosselot next stated that she didn't understand why Mr. Fehr should be allowed to "annex" the fourth lot into the district; Ms. Waksler pointed out that the lot in question (Lot 12) creates a "hole" in the boundary by not having been included in the original Overlay District boundary definition. Additionally, inclusion of this lot will help create a total acreage sufficient to allow for a quality development with adequate internal circulation through the property along with the required setbacks and landscaping.

- **Mr. Marshall** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

Mr. Marshall asked about the placement and extent of the required wall if the petition was granted.

Recommendation

Mr. Marshall moved that the request for **revision of the US 41 Overlay District** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated March 22, 2011, along with the evidence presented at today's meeting, second by **Mr. Brown** and carried by a unanimous vote.

Mr. Marshall moved that application **PA-11-02-02** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated March 22, 2011, along with the evidence presented at today's meeting, second by **Mr. Brown** and carried by a unanimous vote.

Mr. Marshall moved that application **Z-11-02-03** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated March 22, 2011, along with the evidence presented at today's meeting, second by **Mr. Brown** and carried by a unanimous vote.

Z-11-03-04

Quasi-Judicial

Commission District II

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas. The rezoning is from Planned Development to Planned Development (PD). This is a major modification of an existing PD to revise conditions of approval; for property located north of South Jones Loop Road, south of North Jones Loop Road, east of Taylor Road and southwest of Interstate 75, in the Punta Gorda area, containing 87.4± acres; Commission District II; Petition No. Z-11-03-04; Applicant: KB Home Fort Myers, LLC; providing an effective date.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated April 15, 2011 and the evidence presented at the public hearing on the application. She pointed out that the monitoring has been being done since 2005, and the cost has been borne solely by the applicant; no adverse impacts have ever been detected. She noted that City of Punta Gorda planning staff had indicated their concern with waiting until the project was 80% built-out before restarting the required testing; they plan to offer another testing schedule option but it is not yet available.

Questions for Staff

Chair Hess asked Ms. Shao for clarification on the build-out status of the project.

Applicant's Presentation

Geri Waksler, Esq., applicant's agent, spoke in support of the project, providing information about the monitoring activity and results currently being generated; in response to a question from Chair Hess, **Ms. Waksler** noted that the monitoring reports are submitted to the Growth Management Department. She also gave specific details about the suggestions being made regarding the City of Punta Gorda's concern over the restart schedule for monitoring, indicating that the applicant was willing to work with City and County staff to adopt different standards.

Public Input

None.

- **Mr. Marshall** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

Ms. Shao clarified that the five-year period mentioned by Ms. Waksler was actually two years; the current build-out level (22%) was also clarified.

Mr. Gravesen offered some thoughts on the impacts of dirt-moving along the creek, noting that lots closest to the creek are the most built-out which suggests lessened concern about future activity having impact on the creek.

Recommendation

Mr. Gravesen moved that application **Z-11-03-04** be forwarded to the Board of County Commissioners with a recommendation of *Approval, with staff and applicant continuing to work to resolve the City's concerns*, based on the findings and analysis in the staff report dated April 15, 2011, along with the evidence presented at today's meeting, second by **Ms. Marshall** and carried by a unanimous vote.

PP-05-01-02

Quasi-Judicial

Commission District IV

Mr. Richard W. Arnold, Flagship Builders & Developers, is requesting a two-year extension of the Preliminary Plat approval for River Haven Estates Subdivision, Petition PP-05-01-02. This project had preliminary approval from the Planning and Zoning Board on March 5, 2005, and from the Board of County Commissioners on April 19, 2005. Three one-year extensions have been granted by the Planning and Zoning Board since then. The most recent was on May 10, 2010. The site is in Section 8, township 40 South, Range 21, located north of Markham Avenue, east of Apollo Waterway, south of Hughes Avenue and west of Casper Street, in Commission District IV. The site consists of 22.5 acres, more or less, for 32 single family lots. Since the project construction has not yet been completed, the applicant is requesting a one-year extension in order to complete it.

Staff Presentation

Steven Ellis, Planner II, presented the findings and analysis of the petition with a recommendation of *Denial*, based on the reasons stated in the staff report dated March 29, 2011 and the evidence presented at the public hearing on the application.

Applicant's Presentation

Mr. Richard Arnold, Flagship Builders, spoke in support of the request. He noted an address correction to the staff.

Questions for Staff

None.

Public Input

None.

- **Mr. Marshall** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

There was a brief discussion clarifying the period of the requested extension, occasioned by a typographic error in the advertising text; the Assistant County Attorney reviewed the issue and the matter went forward on the basis of a two-year request.

Recommendation

Mr. Marshall moved that application **PP-05-01-02** be *Approved*, based on the findings and analysis in the staff report dated March 29, 2011, along with the evidence presented at today's meeting, second by **Ms. Gravesen** and carried by a unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 2:30 p.m.